



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Naoki HAGAI et al.

Group Art Unit: 2625

Application No.: 10/608,477

Examiner: P. DHINGRA

Filed: June 30, 2003

Docket No.: 116403

For: MULTILEVEL VALUE OUTPUT DEVICE

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the June 15, 2007 Election of Species Requirement, and the August 9, 2007 personal interview, the period for reply being extended by the attached Petition for Extension of Time, Applicants provisionally elect Species I, with claims 1-13, 19, 21 and 22 reading thereon, with traverse.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Dhingra in the August 9, 2007 personal interview, and the August 13 telephone interview. Applicants' separate record of the substance of the personal interview and telephone interview is incorporated into the following remarks.

In the June 15, 2007 Office Action the Office Action alleges that the application contains claims directed to patentably distances species. For example, the Office Action alleges that page 9, line 22 through page 11, line 5, of the specification, discloses alleged Species I that includes "the three relative density values are defined independently on a predetermined maximum density"; whereas page 11, line 6 through page 13, line 12, of the

specification, discloses alleged Species II that includes "the three relative density values are defined by normalizing the at least three multilevel output values based on a predetermined maximum density." Additionally, Applicants note that during the August 9, 2007 personal interview, the Examiner asserted that the features identified in alleged Species I and alleged Species II are not the primary reasons for the Election of Species Requirement. The Examiner further explained that alleged Species I is directed to "an output-value generation control portion," page 10, line 22 through page 11, line 5, of the specification; whereas the alleged Species II is directed to "a threshold setting portion," page 13, lines 8-12, of the specification. However, for the reasons discussed below, Applicants submit that the Election of Species Requirement is improper.

Applicants traverse the Election of Species Requirement on the grounds that the alleged Species I and II, as identified by the Examiner, are not mutually exclusive. In this respect, MPEP § 806.04(f) states that an Election of Species Requirement is only proper where claims to be restricted to different species recite the mutually exclusive characteristics of such species.

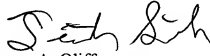
Applicants submit that independent claims 1, 19, 21 and 22, which are directed to alleged Species I, are not mutually exclusive to independent claims 14, 20, 23 and 24, which are directed to alleged Species II. For example, independent claim 1 recites an output-value generation control portion, and independent claim 14 recites a threshold setting portion. Applicants further note that claim 6, which depends from claim 1, recites "the output-value generation control portion includes a threshold setting portion." In this regard, the threshold setting portion is part of the output-value generation control portion. Importantly, because the threshold setting portion is part of the output-value generation control portion, independent claim 1 is not mutually exclusive to independent claim 14. For example, the specification clearly supports these features at Figs. 4a and 4b, and page 26, line 9 through page 34, line 12.

Accordingly, because the claims to be restricted to different species do not recite mutually exclusive characteristics of such species, the Election of Species Requirement is improper. Applicants thus respectfully request reconsideration and withdrawal of the Election of Species Requirement at least on these grounds.

Furthermore, it is also respectfully submitted that the subject matter of all species is sufficiently related that a thorough search for the subject matter of any one species would encompass a search for the subject matter of the remaining species. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Election of Species Requirement is respectfully requested.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Timothy S. Smith
Registration No. 58,355

JAO:TSS/eks

Attachment:
Petition for Extension of Time

Date: August 15, 2007

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--